

# **EXHIBIT E**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

HODELL-NATCO INDUSTRIES, INC.	)	CASE NO. 1:08 CV 2755
	)	
Plaintiff,	)	JUDGE: LESLEY WELLS
	)	MAGISTRATE JUDGE: GREG WHITE
	)	
-vs.-	)	
	)	
	)	
SAP AMERICA, INC., et al.	)	
	)	
Defendants.	)	

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DEFENDANT IBIS AND LSI-LOWERY SYSTEMS, INC.'S RESPONSES TO PLAINTIFF  
HODELL-NATCO INDUSTRIES, INC.'S FIRST REQUESTS FOR PRODUCTION OF  
DOCUMENTS

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Objection to the four pages of "definitions" and "instructions" to the extent they attempt to expand upon defendant's obligations set forth in the Rules of Civil Procedure. There is no representation that these responses are in accordance with those "definitions" and "instructions", or that those "definitions" and "instructions" have even been read by defense counsel.

The documents being produced should be considered an initial, incomplete response. Search and identification of additional documents, all of which are electronically stored, is not possible, and is unduly burdensome and oppressive, until the parties agree upon appropriate search terms and reach other understandings as they relate to electronically stored information.



Roy A. Hulme, as to all objections  
contained herein.

REQUESTS FOR PRODUCTION

REQUEST NO. 1: All documents referred to or relied upon in supplying answers to Plaintiff's First Set of Interrogatories and Requests for Admission served concurrently herewith.

**RESPONSE:** **The answers were not generated solely on documents, and no records were kept as to what records were used in responding to those discovery requests. Some of the documents labeled as LSI-000001 – LSI000474 are probably responsive.**

REQUEST NO. 2: All documents relating to communications by and between LSI and/or IBIS relating to the Software and/or Plaintiff.

**RESPONSE:** **Vague and ambiguous, but Documents LSI-000001-474 seem to be responsive to this request.**

REQUEST NO. 3: All documents relating to communications by and between LSI and SAP America, Inc., its agents and representatives.

**RESPONSE:**  
  
**To us, SAP Inc. and SAP America Inc, were and are one and the same. No one differentiated between the two in our dealings. As to our agreements and termination, see LSI-000001- 163 & 192-283.**

REQUEST NO. 4: All documents relating to communications by and between LSI and SAP AG, its agents and representatives.

**RESPONSE:** **See response to #3.**

REQUEST NO. 5: All documents relating to communications by and between LSI and Plaintiff, its agents and representatives.

**RESPONSE:** **See documents LSI-000431 – 443.**

REQUEST NO. 6: All copies of the Development Agreement attached as Exhibit D to Plaintiff's First Amended Complaint, including any drafts, mark-ups, or amended versions thereof.

**RESPONSE:** **See documents LSI-000001 – 15.**

REQUEST NO. 7: All copies of the Maintenance and License Agreement attached as Exhibit G to Plaintiff's First Amended Complaint, including any drafts, mark-ups, or prior versions thereof.

**RESPONSE:** See documents LSI-000056 – 159.

REQUEST NO. 8: All form contracts or agreements utilized by LSI or any of its partners or agents in marketing or selling the Software.

**RESPONSE:** None other than those supplied by SAP.

REQUEST NO. 9: All marketing materials prepared, drafted, generated, or distributed for the Software, regardless of the source thereof, including, but not limited to brochures, product descriptions, technical papers and specifications, scripts, e-mails, advertisements, testimonials, and web screen shots.

**RESPONSE:** See documents LSI-000444 – 453.

REQUEST NO. 10: All documents relating to the Radio Beacon Software.

**RESPONSE:** See documents LSI-000284 – 293.

REQUEST NO. 11: All documents relating to the In-Flight Enterprise software.

**RESPONSE:** See documents LSI-000294 – 305.

REQUEST NO. 12: All documents by and between LSI and American Express Tax and Business Services.

**RESPONSE:** No documents identified at this time.

REQUEST NO. 13: All insurance policies under which IBIS may claim, request or be entitled to coverage for any of the claims alleged against it in Plaintiff's First Amended Complaint and any reservation of rights related thereto.

**RESPONSE:** See documents LSI-000306 – 348.

REQUEST NO. 14: All documents referring or relating to the acquisition of IBIS by LSI.

**RESPONSE:** See documents LSI-000349 – 369.

REQUEST NO. 15: All documents referring or relating to LSI's capabilities in selling and supporting the Software as referenced in Paragraph 10 of your Answer to the First Amended Complaint.

**RESPONSE:**

**Do not understand this question, but as it relates to the acquisition of IBIS by LSI, see LSI-000180 – 181.**

REQUEST NO. 16: All documents relating, directly or indirectly, to the statement in Paragraph 11 of your Answer to the First Amended Complaint that LSI and IBIS were "agents of SAP for purposes of the SAP products."

**RESPONSE:**

**See generally LSI-00001-159 and 454 – 474. All of the communications between the parties support this proposition.**

REQUEST NO. 17: All contracts, agreements, understandings, and memorandums of oral agreements between LSI and/or IBIS on one hand and SAP America, Inc. and/or SAP AG on the other hand.

**RESPONSE:** See documents LSI-000001-159, 370 – 392.

REQUEST NO. 18: All contracts, agreements, understandings, and memorandums of oral agreements between LSI and/or IBIS on one hand and Radio Beacon, Inc. on the other hand.

**RESPONSE:** See documents LSI-000284 – 293.

REQUEST NO. 19: All documents exchanged or transmitted between LSI and SAP regarding the In-Flight Enterprise Software.

**RESPONSE:** See documents LSI-000294 – 305.

REQUEST NO. 20: All documents referred to or referenced in preparing your Answer to the First Amended Complaint.

**RESPONSE:** Objection, calls for work product.

REQUEST NO. 21: All documents supporting your Second Affirmative Defense that LSI and IBIS were agents of disclosed principals.

**RESPONSE:** Objection, calls for work product.

REQUEST NO. 22: All documents supporting your Third Affirmative Defense that Plaintiff is not a legal entity capable of bringing this action.

**RESPONSE:**

**Objection, calls for work product.**

REQUEST NO. 23: All documents supporting your Fourth Affirmative Defense that some or all of Plaintiff's claims may be barred by its own actions or inactions.

**RESPONSE:**

**Objection, calls for work product.**

REQUEST NO. 24: All documents supporting your Counterclaim against Plaintiff for the payment services rendered and expenses advanced by LSI and/or IBIS on behalf of Plaintiff.

**RESPONSE:**

**We are searching for these documents.**

REQUEST NO. 25: All invoices or requests for payment sent to Plaintiff.

**RESPONSE:**

**We are searching for these documents.**

REQUEST NO. 26: All documents reflecting when IBIS and/or LSI first recognized revenue from the sale of Software licenses to Plaintiff.

**RESPONSE:**

**We are searching for these documents.**

REQUEST NO. 27: All documents evidencing or memorializing payments received from Plaintiff or anyone acting on its behalf.

**RESPONSE:**

**We are searching for these documents.**

REQUEST NO. 28: All purchase orders received from Plaintiff or anyone acting on its behalf.

**RESPONSE:**

**We are searching for these documents.**

REQUEST NO. 29: All documents referring or relating to expenses advanced by LSI and/or IBIS on Plaintiff's behalf.

**RESPONSE:**

**We are searching for these documents. See also LSI-000401 – 402.**

REQUEST NO. 30: All documents referring or relating to services performed on Plaintiff's behalf for which LSI and/or IBIS have not been paid.

**RESPONSE:** **We are searching for these documents. see also LSI-000403 – 410.**

REQUEST NO. 31: All documents referring and/or relating to the installation of the Software at Plaintiff's business premises.

**RESPONSE:** **See LSI00001-474**

REQUEST NO. 32: All documents exchanged or transmitted between LSI and any third party referring or relating to the Software in any way whatsoever.

**RESPONSE:** **Overbroad, ambiguous, but see LSI-000431 – 443.**

REQUEST NO. 33: All documents exchanged or transmitted between LSI and any third party referring or relating to Plaintiff in any way whatsoever.

**RESPONSE:** **See Documents LSI-00001-474.**

REQUEST NO. 34: All documents between LSI and any third party referring to SAP American, SAP AG or the Software in any way whatsoever.

**RESPONSE:** **No idea where these would all be located or how many there are. Some are included in LSI 00001-474.**

REQUEST NO. 35: Any and all organizational charts or documents reflecting the organizational structure, directors and officers of IBIS and LSI from January 1, 2003 to date.

**RESPONSE:** **None.**

REQUEST NO. 36: Any and all agreements, contracts, written understandings or memorandums of oral agreements between IBIS and/or LSI on one hand and SAP America and/or SAP AG on the other hand.

**RESPONSE:** **See attached Agreements 1, 2, 3, and 4 labeled as LSI-000001 – 159.**

REQUEST NO. 37: Any and all documents exchanged or transmitted among any of IBIS, LSI and Heather Devereux referring or relating to SAP America, SAP AG, Plaintiff, and/or the Software.

**RESPONSE:** **No documents identified at this time.**

REQUEST NO. 38: Any and all documents exchanged or transmitted among any of IBIS, LSI and Penelope Vitantonio referring or relating to SAP America, SAP AG, Plaintiff, and/or the Software.

**RESPONSE:** No documents identified at this time.

REQUEST NO. 39: All documents LSI reserves the right to introduce as exhibits at trial.

**RESPONSE:** Documents LSI-00001-474 plus whatever others we find after coming to an agreement with the other parties on search terms.

REQUEST NO. 40: Copies of any reports or opinions obtained from any expert retained in this matter, and any documents provided to or received from any such expert.

**RESPONSE:** None at this time.

REQUEST NO. 41: Copies of any curriculum vitae for any expert retained by LSI in this matter.

**RESPONSE:** No trial expert has been retained.

REQUEST NO. 42: Copies of any and all documents referencing the number of users and/or size of business the Software could support.

**RESPONSE:** See Documents LSI-000420 – 430.

REQUEST NO. 43: Copies of any and all documents referencing the number of successful installations of the Software at any particular point in time.

**RESPONSE:** No documents identified at this time.

REQUEST NO. 44: Copies of any joint defense, expense sharing and/or cooperation agreements between LSI and IBIS.

**RESPONSE:** None

REQUEST NO. 45: Copies of any joint defense, expense sharing and/or cooperation agreements between LSI and SAP America and/or SAP AG.

**RESPONSE:** None



Respectfully submitted,

/s/ Roy A. Hulme

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CERTIFICATE OF SERVICE

The foregoing Responses to Plaintiff's First Request For Production of Documents were sent by ordinary U.S. Mail, postage prepaid and electronically on this 19<sup>th</sup> day of July, 2010 to:

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